

II. Claims 5, 10, 12 and 15-17 (in part), drawn to polypeptides and compositions, classified in class 424, subclass 221.1 for example;

III. Claims 6 and 14, drawn to antibody and compositions, classified in class 424, subclass 139.1 for example.

Further, the Office Action states that Applicants are also to elect one DNA sequence among SEQ ID NOS:1-11.

Applicants respectfully traverse the requirements for selecting a single nucleotide sequence within the selected group.

According to the MPEP § 803.04, nucleotide sequences encoding different proteins are structurally distinct chemical compounds and are unrelated to one another, and, thus, each such nucleotide sequence is presumed to represent an independent and distinct invention, subject to a restriction requirement under 35 U.S.C. § 121 and 37 C.F.R. § 1.141. However, such restriction requirements have been partially waived *sua sponte* by the Commissioner (see *Examination of Patent Applications Containing Nucleotide Sequences*, 1192 O.G. 68, November 19, 1996) and “it has been determined that normally ten (10) sequences constitute a reasonable number for examination purposes” and “in most cases, up to ten independent and distinct nucleotide sequences, will be examined in a single application without restriction (the MPEP § 803.04).” The same section of the MPEP further states that “nucleotide sequences encoding the same protein are not considered to be independent and distinct inventions and will continue to be examined together.”

In the present application, the nucleotide sequences of SEQ ID NOS:1-6 correspond to the nucleotide sequences 512 to 531, 586 to 604, 916 to 934, 1194 to 1213, 3028 to 3046 and 5024 to 5042, respectively, *of a single gene encoding the replicase* of the

coronavirus (*see* Fig. 1); SEQ ID NO:7 corresponds to a portion of a gene encoding S protein; SEQ ID NO:8 corresponds to a portion of a gene encoding the E protein; SEQ ID NOS:10 and 11 correspond to portions, respectively, of a gene encoding the M protein; and SEQ ID NO:9 corresponds to a portion of a gene encoding the N protein. Thus, the nucleotide sequences which encode different portions, respectively, yet of the same gene encoding one (1) protein should be examined together. Namely, SEQ ID NOS:1-6 should be examined together and SEQ ID NOS:10 and 11 should be examined together.

Furthermore, even though each of these nucleotide sequences may be presumed to be an independent and distinct invention and each requires an independent search of the sequence databases, Applicants respectively submit that such searches should not cause undue burdens on the examiner's part.

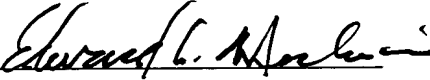
Accordingly, Applicants respectfully request that the requirement for selecting a single nucleotide sequence within an elected group should be withdrawn and that at least SEQ ID NOS:1-6 be examined together within elected Group I.

Nevertheless, in order for the response to the Office Action to be complete, Applicants provisionally elect the examination of the nucleotide sequence of SEQ ID NO:1.

No fees, other than the extension fee, is believed to be due for this submission. Should any fee be required, please charge such fee(s) to Deposit Account No. 50-2215.

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Respectfully submitted,

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